

**DEPARTMENT OF STATE REVENUE  
LETTER OF FINDINGS NUMBER: 02-0109  
Motor Carrier/IFTA  
For Tax Years 1998 through 2000**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superceded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE**

**I. Motor Carrier/IFTA—Audited Mileage and Fuel Calculations**

**Authority:** IC 6-6-4.1-4; IC 6-8.1-5-1; IC 6-8.1-5-4; IFTA P510; IFTA R1210.100; IFTA R1210.200

Taxpayer protests the method used to calculate mileage and fuel tax.

**STATEMENT OF FACTS**

Taxpayer operated a hauling business. The business is no longer in operation. As the result of an audit, the Indiana Department of Revenue ("Department") issued proposed assessments for tax years 1999 and 2000. Due to the unavailability of sufficient records, the Department estimated mileage and fuel consumption. Taxpayer protests that the estimations were too high. Taxpayer did not attend the scheduled administrative hearing. Further facts will be provided as required.

**I. Motor Carrier/IFTA—Audited Mileage and Fuel Calculations**

**DISCUSSION**

Taxpayer operated a hauling business, which hauled a variety of loads for a variety of customers. The Department conducted a Motor Carrier and IFTA (International Fuel Tax Agreement) audit for the tax years 1998 through 2000. The Department found insufficient records to determine the amount of tax which should have been paid under IC 6-6-4.1-4 and IFTA. IC 6-6-4.1-4(a) states in part:

A tax is imposed on the consumption of motor fuel by a carrier in its operations on highways in Indiana. The rate is the same rate per gallon as the rate per gallon at which special fuel is taxed under IC 6-6-2.5. The tax

shall be paid quarterly by the carrier to the department on or before the last day of the month immediately following the quarter.

IC 6-8.1-5-4(a) states:

Every person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the person's liability for that tax by reviewing those books and records. The records referred to in this subsection include all source documents necessary to determine the tax, including invoices, register tapes, receipts, and canceled checks.

Also, IFTA P510 states:

Every licensee shall preserve the records for a period of four years from the due date of the return or the date filed, whichever is later. Such records shall be made available upon request by any member jurisdiction.

In its protest, taxpayer explains that some of its documentation was destroyed in a fire. The Department reviewed the available information to determine the amount, if any, of taxpayer's liability.

The Department refers to IC 6-8.1-5-1(a), which states in relevant part:

If the department reasonably believes that a person has not reported the proper amount of tax due, the department shall make a proposed assessment of the amount of unpaid tax on the basis of the best information available to the department.

IFTA R1210.100 states in relevant part:

In the event that any licensee...  
.015 fails to maintain records from which the licensee's true liability may be determined, the base jurisdiction shall, on the basis of the best information available to it, determine tax liability of the licensee for each jurisdiction. The base jurisdiction shall, after adding the appropriate penalties and interest, serve the assessment upon the licensee in the same manner as an audit assessment or in accordance with the laws of the base jurisdiction.

The Department determined that taxpayer had not reported the proper amount of tax due under IC 6-6-4.1-4. The Department then issued a proposed assessment of the unpaid tax on the basis of the best information available to the Department, as provided in IC 6-8.1-5-1(a) and IFTA R1210.100.

Taxpayer states in its protest that it disagrees with the Department's assessment and provided some documentation to support its position. Taxpayer also states in its protest

that, “The State may have circumstantial evidence, but you have not proven we bought the fuel nor where we did such.” The Department refers to IC 6-8.1-5-1(b), which states in relevant part:

The notice of proposed assessment is prima facie evidence that the department’s claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made.

IFTA R1210.200 states in relevant part:

The assessment made by a jurisdiction pursuant to this procedure shall be presumed to be correct and, in any case where the validity of the assessment is questioned, the burden shall be on the licensee to establish a fair preponderance of evidence that the assessment is erroneous or excessive.

Prior to an administrative hearing being scheduled, the Department informed taxpayer that the submitted documentation was insufficient to prove the proposed assessment wrong. Taxpayer did not submit any further information and did not attend the scheduled administrative hearing. Taxpayer has not met its burden under IC 6-8.1-5-1(b) and IFTA R1210.200.

Therefore, taxpayer did not report the proper amount of tax due under IC 6-6-4.1-4 and did not have sufficient records available to determine the proper amount due as required under IC 6-8.1-5-4(a) and IFTA P510. The Department issued the proposed assessment using the best information available, under IC 6-8.1-5-1(a) and IFTA R1210.100. Taxpayer has not met its burden of proving the proposed assessment wrong, as required under IC 6-8.1-5-1(b) and IFTA R1210.200.

### **FINDING**

Taxpayer’s protest is denied.